(36)

HIGH COURT OF CHHATTISGARH, BILASPUR

W.P. (S) No.7249 of 2007

PETITIONER Smt. Shakuntala Sahu, w/o B. Sahu, aged about 55 years, Presently posted as Principal, Govt. Hr. Sec. School-Sivni-Naila, Block Nawagarh, District Janjgir Champa, Transferred to Govt. High School, Tilai, District Janjgir Champa(CG)

Versus

RESPONDENTS

1. State of Chhattisgarh, Through : the Secretary, Department of School Education, D.K.S. Bhawan, Mantralaya, Raipur
2. The Director, Directorate, Public Education, Raipur
3. The Secretary, General Administration, DKS Bhawan, Raipur.

WRIT PETITION UNDER ARTICLE 226 OF THE CONSTITUTION OF INDIA

Appearance:

Shri Kishore Bhaduri, counsel for the petitioner.

Shri Ajay Dwivedi, Panel Lawyer, for the State/ respondents on advance copy.

ORAL ORDER
(07.12.2007)

SUNIL KUMAR SINHA, J.

Heard on admission.

The petitioner, who is working on the post of Principal, Govt. Higher Secondary School, Sivni Naila, Block Nawagarh, District Janjgir Champa has been transferred to Govt. High School, Tilai, District Janjgir Champa(CG) on administrative grounds.

Learned counsel for the petitioner argues that the petitioner has only completed about 2 years at Sivni Naila and the order has been passed on 21.9.2007 i.e. in the ban period, therefore, the order is against transfer policy of the State Government dated 13th June, 2007.

I have heard learned counsel for the petitioner at length and have also perused the records filed along with the writ petition.

So far as the conditions of transfer policy are concerned, needless to say that these are only the guidelines and they do not confer any enforceable right to a government servant. It is for the employer to see that as far as possible, the guidelines framed and the policy made for transfer of an employee should be followed and deviation should be at the administrative exigency as and when it desires.

Transfer is an incidence of service. No person working on a transferable post can claim to be posted at a particular place. It is for the employer to see that who should be posted where in the interest of better functioning of the department as also public interest. It is the settled view of the Apex Court that unless the order of transfer is vitiated by malafide or extraneous considerations or is against any statutory Rule or the Act, it cannot be interfered with by a Court of Law.

Learned counsel for the petitioner could not point out any ground of malafide, or extraneous considerations or that the order has been passed against any Statutory Rule or the Act.

I do not find any reason to interfere with the order of transfer of the petitioner on these grounds.

For the foregoing reasons, I dispose of this petition at this stage. However, it is directed and observed that if so advised, the petitioner may file a detailed representation before the concerned authority, which shall be decided on its own merits in accordance with law.

It is expected that the authorities shall take early decision if the representation is filed by the petitioner looking to the fact that the petitioner has assailed the transfer mainly on the ground of violation of the transfer policy framed by the State.

Sd/-
Sunil Kumar Sinha
Judge

Seema